SUPREME COURT OF AZAD JAMMU AND KASHMIR

Shahid Zaman *vs.* *Azad Govt. & others*

PRESENT:
Raja Amjad Ali Khan and Syed Ashfaq Hussain Kazmi, Advocates for the applicant.
Sh. Masood Iqbal, Advocate-General on behalf of Government.
Secretary Food along with Deputy Director Food, Food Safety Officer, and Inspector Food, in person.
Mayor and Magistrate Municipal Corporation, Muzaffarabad, in person.
Director General Live Stock and Director Live Stock along with Veterinary Doctor, in person.

ORDER:-

A comprehensive report submitted by the Municipal Magistrate regarding food adulteration has been placed before the Court, the contents whereof are highly alarming. Upon examination of the said report, we are justified to observe that the Food Authority has failed to effectively discharge its duties. Furthermore, while appearing before the Court pursuant to its direction, the Secretary Food, along with other officers of the Food Authority, was unable to satisfactorily address the queries raised by the Court on the following issues:-

i) Influential accused persons engaged in the business of frozen food items have filed multiple writ petitions and suits before the High Court and the lower Courts, thereby deliberately entangling the Municipal Corporation Muzaffarabad in prolonged legal proceedings. By obtaining interim reliefs, the accused have continued the business of substandard, non-certified, and hazardous frozen meat items, posing a serious threat to public health.
ii) Previously, throughout all districts and tehsils of Azad Kashmir, Veterinary Officers and Meat

Inspectors used to inspect animals at slaughterhouses and affix official seals on meat after slaughter, thereby ensuring the supply of hygienic meat in the markets in accordance with public health standards. However, in recent times, in Muzaffarabad, accused persons engaged in the business of substandard, non-certified, and hazardous frozen meat items, in collusion with officials of the Food Authority, filed writ petitions before the High Court. They took the false stance that all food items are tested in their laboratory and, on this basis, obtained injunction orders restraining the Municipal Corporation from initiating legal action. Under the cover of these Court's orders, the said traders continue to sell inferior and unhygienic meat and hazardous frozen food items, as a result of which citizens are suffering from various diseases.

iii) In Muzaffarabad, accused persons involved in the frozen food business, including Ihtesham, Mehran, and others, have prepared fake packaging of various companies. Instead of genuine products, they purchase low-quality, substandard, and partially melted frozen meat from a broker named Suleman, which is sourced from Lahore through an accused named Naveed. The said frozen meat is transported to Muzaffarabad through unsuitable vehicles that do not maintain the required temperature for frozen food transportation and is thereafter sold in local markets. The accused persons have also obtained fake registrations in their own names under the label HFC from the AJK Food Authority and the Industries Department.

iv) The laboratory operating under the supervision of the AJK Food Authority is not ISO-certified and lacks the facility to detect adulteration of milk with chemicals, milk powder, or detergents. Despite this, the Food Authority mis briefed the High Court by stating that all food-related tests are conducted in its laboratory. According to laboratory reports issued by the Food Authority, the levels of SNF and fats in milk are shown to be higher than the prescribed standards, while the same reports contain remarks indicating water adulteration. Scientifically, increased SNF and fat content would result in thicker milk, whereas

water adulteration would reduce such values. This contradiction renders the laboratory reports ambiguous and unreliable. Furthermore, according to the Director General Livestock, the Food Authority laboratory lacks the capability to analyze artificial milk prepared from powder.

v) Officials of the Food Authority themselves collect samples of food items from traders in the market and, on the basis of reports issued by their own laboratory, proceed to recommend and impose penalties on the traders. As a result of this practice, complaints are being received on a daily basis from traders alleging arbitrariness, lack of transparency, and misuse of authority.

vi) This Court, vide interim order dated 05-07-2022, directed that the Azad Jammu & Kashmir Local Government Act, 1990 be amended on the pattern of the Punjab Local Government Act. However, in the Amendment Act, 2023, the powers of Municipal Magistrates were divided part-wise and restricted mainly to ticketing only. Due to such limitation of powers, serious difficulties are being faced in the effective implementation and enforcement of judicial orders.

2. It may be observed here that the Food Authority was established to safeguard public health and to regulate, monitor, and control the quality of food items but has failed to achieve the very purpose for which it was created. The Authority has been unable to effectively curb the menace of food adulteration and has remained ineffective in discharging its duties. From the report submitted by the Municipal Magistrate and the inquiries made from the Secretary Food and other officers of the Food Authority, certain important reasons showing the inability and failure of the Food Authority have come to our notice. Keeping in view the seriousness of the controversy and its impact on

public interest, these reasons are discussed below under the following heads:—

Lack of Qualified and Trained Staff:-

During the course of hearing, questions were put to various officers of the Food Authority present before the Court, regarding their educational qualifications and professional competence. It transpired that most of the officers presently working in the Food Authority do not possess the prescribed qualifications necessary for the proper and effective discharge of their statutory duties. It was further revealed that most of the officers of the Food Authority have been serving on a contractual basis for a considerable period of time, without regular appointment or proper capacity-building. This state of affairs has adversely affected the efficiency, independence, and overall performance of the Food Authority, thereby undermining its ability to enforce food safety laws in an effective manner.

Failure to Establish Proper Laboratory and Misuse of Public Funds:-

Directions were issued by this Court to the Food Authority, from time to time regarding the establishment of a proper laboratory in Azad Kashmir and identification of a suitable place for that purpose, but the Food Authority instead of complying with the directions of this Court, opted to purchase vehicles/mobile laboratories by expending a huge amount of approximately Rs.12 Crore from the public exchequer, yet failed to achieve the desired objectives. It has also surfaced on record that such actions were taken merely as a tool to accommodate persons involved in this illegal and hazardous business. Consequently, instead of improving the situation in Azad Jammu & Kashmir, the provision of so-called mobile laboratory facilities has further aggravated the problem, particularly by allowing the illegal business of adulterated milk and other substandard food items under the very watch of the Food Authority.

Lack of Effective Regulatory Control Over Franchise-Based Businesses:-

During the proceedings, the owner of HFC also appeared in person before the Court and submitted that he had established a frozen food business under the name of HFC after observing all legal formalities, obtaining the requisite licence

from the Punjab Food Authority and was operating his business across Pakistan. He further stated that accused Ehtisham had obtained a franchise of HFC for running business in Azad Kashmir; however, subsequently, instead of procuring the material from HFC, he started packing food items obtained from another fake company allegedly established by one Naveed, and sold substandard food items in the market under the guise of HFC. All this has been done due to the improper monitoring and inspection by the Food Authority.

Weak Supervision in the Field and connivance of the Food Authority-

Mr. Haroon Riaz Mughal, the learned Advocate representing one of the accused, (Ehtisham) contended that his client is not only a distributor of food items of HFC but also a distributor of food items of Sabroso and K&N's companies. He further submitted that the said food items were taken into custody by the Magistrate without any proper testing, relying solely on their smell.

From the perusal of the available record, the contention of the learned counsel appears to be misconceived, as it has come on record that expired material, which was intended to be disposed of by the factory with the connivance of company officials, was purchased by the said accused without any gate pass and invoice and without being transported in hygienic vehicles, was sold in the market. Furthermore, expired pouch milk, injurious to the newly born child was also sold in the market, with the connivance of the Food Authority. The samples of certain food items were forwarded to the Food Authority by the Municipal Magistrate; however, the same were returned on the pretext that they are not in conformity with the prescribed SOPs, whereas the Pakistan Council of Scientific and Industrial Research (PCSIR), Lahore, being a competent and approved institution, declared the said samples to be fit. The reliance of the Food Authority on the test reports of laboratory (PCSIR) Islamabad, being not certified by SOPs, *prima facie,* reflects connivance on the part of the Food Authority.

Issuance of status quo order and grant of interim bail to the accused by the Court below:-

It is also evident from the record that, in compliance with the orders of this Court, the Magistrate Municipal Corporation

initiated actions against persons engaged in the business of selling adulterated milk and substandard food items, including the registration of F.I.Rs. However, the accused subsequently obtained interim bail and status quo orders from the courts of competent jurisdiction, which hindered the effective continuation of the enforcement actions.

3. During the course of hearing, the Secretary Food, along with other officers of the Food Authority, was confronted regarding the inefficiency and inability in the performance of their duties, as discussed above, but he failed to provide a satisfactory explanation and, instead, left himself upon the mercy of this Court. We are afraid, that this is not merely a matter for judicial consideration; rather the health and safety of the citizens are directly at stake and cannot be treated with leniency. When the Food Authority fails to discharge its statutory responsibilities and leaves the citizens upon the mercy of the individuals engaged in the sale of adulterated food items, reliance on the mercy of the Court cannot substitute for the Authority's fundamental duty to protect public health. Therefore, keeping in view the foregoing facts, circumstances, and the manifest failure of the Food Authority to discharge its obligations, this Court deems it appropriate to issue the following directions in the interest of public health and effective enforcement of law:

i). The Government is hereby directed to initiate a formal inquiry against the Secretary Food and the concerned officers of the Food Authority to investigate the lapses and mismanagement in the performance of their duties. The inquiry shall specifically examine the circumstances surrounding the purchase of mobile laboratories, which were found to be defective, despite the expenditure of a huge amount from the public exchequer. A detailed report of the findings, including recommendations for accountability and corrective measures, shall be

submitted to this Court within a period of two months.

ii). As has been observed hereinabove that most of the directions/orders issued by this Court have not been complied with, therefore, the Secretary Food is directed to obtain copies of all such orders and submit a detailed report, stating therein that what steps have been taken and what measures have been implemented so far in compliance of the such orders. The office is also directed to open a separate file of Robkar against the Secretary Food and the other concerned officers of the Food Authority present in the Court. A show-cause notice shall be issued to them, requiring them to explain why the contempt proceedings should not be initiated for their failure to comply with the orders of this Court.

iii). Keeping in view the question marks on the performance of the staff of the Food Authority, it is imperative that suitable qualified persons, at par with the standards of the Punjab Food Authority, be inducted. Accordingly, the Government is directed to take immediate steps for advertisement of the relevant posts and, while framing the eligibility criteria, seeking proper guidelines from the Punjab Food Authority, competent and qualified persons may be appointed strictly in accordance with law.

iv). As discussed above, it has been noted that the accused persons engaged in the business of selling adulterated food items have filed multiple writ petitions and suits, and also obtained interim relief, thereby obstructing the course of administrative action. In the interest of justice, and in view of the overall circumstances of the cases, this Court, while exercising the inherent powers conferred under Article 42-A of the Interim Constitution, 1974, read with Order XLIII of the Supreme Court Rules, 1978, hereby vacates all interim reliefs granted by the Courts below in all such matters, including the cases titled **Ihtesham Khan v. State & others**, **Fro-Zone Food Services v. Mayor, Municipal Corporation Muzaffarabad**, **Mehran Khan v. State & others**, **Sarfaraz Ahmad Awan v.**

Secretary Local Government & others, **Umair Mushtaq v. State & others.** The learned High Court as well as the subordinate courts are also directed to decide all pending cases relating to the sale of adulterated food items and milk within a period of six months, and to submit a compliance report to this Court through the Registrar upon completion of the same.

v). It is also directed that the business of the accused persons against whom the FIRs have been registered for fake registration, use of forged HFC packaging, and the business of substandard, non-certified, and hazardous frozen meat items of other companies, as well as for selling meat of dead animals, shall be sealed and permanently closed, the distribution, sale, and supply of frozen meat items of fake companies throughout Azad Kashmir shall be banned. The Food Authority is also directed not to allow the sale of frozen food items and pouch milk of any company unless the same is duly established, registered, and compliant with law. Moreover, all such food items found in the market in violation of the law shall be taken into custody forthwith and compliance report shall be submitted before the Court before the next date of hearing.

vi). The Director General of Livestock, Azad Kashmir, shall ensure that Veterinary Doctors and Meat Inspectors at all districts and tehsil levels conduct daily inspections at slaughterhouses, ensuring that animals are properly checked and that official seals are affixed on meat after slaughter in accordance with the applicable regulations. They shall also conduct surprise inspections of meat and frozen food items being sold in shops or markets and during transportation. Any frozen meat found with a temperature above 19°C in refrigerated vehicles shall be seized and destroyed, and a report of such seizure shall be filed before the concerned Magistrate. Furthermore, Municipal Magistrates shall carry out daily inspections and submit reports of their findings to the Court.

vii) Registered companies engaged in the business of frozen food items shall, henceforth, be required to

supply goods to distributors only through their own refrigerated (chiller) vehicles. The chillers of such vehicles must remain sealed, and the vehicle staff must possess all necessary documents, including invoices and gate passes. Companies shall not use any rented vehicles or third-party transport for the supply of goods. In the event of non-production of the required documents (invoices, gate passes, etc.), the business shall be sealed, and the license issued by the Municipal Corporation shall be canceled. Furthermore, the Secretaries of Industries, the Food Authority, the Director DFCS Azad Kashmir Food Authority, and any other officials of the Industries Department found involved shall be subjected to an inquiry, and a report shall be submitted to the Court regarding the basis on which they issued fake registrations without the existence of a legitimate production unit.

viii). Milk samples sold in the markets shall be collected simultaneously and subjected to cross-testing at the AJK Food Authority Laboratory, Muzaffarabad and PCSIR Laboratory, Lahore, in order to assess the quality standards of the Food Authority laboratory. The staff of the Food Authority laboratory shall also be directed to conduct laboratory tests on milk samples submitted by Municipal Food Inspectors, shopkeepers, or members of the public. Furthermore, any shop selling milk that is not registered with the Municipal Corporation or whose owner fails to provide information regarding the source of the milk shall be sealed, and the business shall be permanently closed.

ix). For future compliance, the Department of Livestock and the Food Authority shall, within the limits of the Municipality, conduct testing of food items under Chapter V, Section 41 of the AJK Food Authority Act, 2017 and attach the test reports with the prosecution. Such cases shall be filed before the Court where the Municipal Magistrate is posted, and in other districts or at the tehsil level, they shall be filed before any First-Class Magistrate Court. This is to ensure that the concerned Magistrates may

determine appropriate punishment after due proceedings in accordance with the law.

x). Despite the clear directions of this Court, the amendments have not been made in the Azad Jammu & Kashmir Local Government Act, on the pattern of the Punjab Local Government Act, rather due to the amendment Act, 2023, the powers of the Municipal Magistrate have been curtailed, due to which the execution of the judicial orders is being not complied with. Furthermore, under the enforced law i.e. the Local Government Act, as well as the Food Authority Act, 2017, a gross ambiguity exists regarding the forum and mode of trial of prescribed offences. Therefore, it is desirable that the Amendment Act, 2023 shall be amended accordingly, and a compliance report shall be submitted before this Court.

4. The aforesaid directions shall be complied with in letter and spirit. A copy of this order shall be transmitted to all concerned, including the Chief Secretary, Secretary Law, Justice, Human Rights and Parliamentary Affairs, the Registrar of the High Court, as well as the courts below, for due compliance. A copy of this order shall also be forwarded to the Principal Secretary to the Worthy Prime Minister, to be placed before the Worthy Prime Minister for perusal and necessary measurement to be taken in this regard.The matter stands adjourned. The office is directed to relist the case for hearing in the **second week of Circuit Tour Mirpur**. Notice shall be issued to the Secretary Food along with the officers of the Food Authority, the Director General Livestock, and the Magistrate, Municipal Corporation Muzaffarabad, requiring their personal appearance before the Court on the next date of hearing.

Before parting with, it may also be observed here that according to the report submitted by the Municipal Magistrate,

due to the actions taken under the directions of this Court against the milk mafia and the prohibition imposed on the transportation of milk from Pakistan, the establishment of local dairy farms has witnessed a noticeable increase. As per the material placed before the Court, these local dairy farms are presently supplying approximately 23,000 liters of milk per day to the citizens. This development reflects a positive regulatory outcome. It is, therefore, observed that, in order to meet the demand for unadulterated milk and to safeguard public health, the establishment and operation of such local dairy farms should be encouraged, strictly in accordance with law.

An application has been filed by GM Dairy Dina, seeking permission to supply milk within the territorial jurisdiction of Mirpur Division. The concerned authorities are directed to process the said application in accordance with law and, subject to fulfillment of all requisite legal formalities, including testing of the milk through an approved laboratory and execution of the necessary bond, allow the applicant to operate within the said area.

CHIEF JUSTICE **JUDGE** **JUDGE**

J-I **J-II**

Muzaffarabad.
14.01.2026 -